

**INTERGOVERNMENTAL AGREEMENT**

BETWEEN  
THE STATE OF ARIZONA  
AND  
CITY OF SOMERTON

THIS AGREEMENT is entered into 23rd December, 2002, pursuant to Arizona Revised Statutes Sections 11-951 through 11-954, as amended between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION ( the "State" ) and the CITY OF SOMERTON, acting by and through its MAYOR AND CITY COUNCIL, the City.

**I. RECITALS**

1. The State is empowered by Arizona Revised Statutes Section 28-401 to enter into this agreement and has by resolution, a copy of which is attached hereto and made part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City.

3. It is to the mutual advantage of the State and the City to landscape the detention basin within the right-of-way on US 95 and on City owned land immediately adjacent to US 95 at the following location:

On the west side of the highway from the intersection of US 95 and Sixth Avenue, milepost 04.84 north to Fifth Avenue, milepost 04.96, a net distance of approximately 0.12 miles.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

---

NO. 25704

Filed with the Secretary of State

Date Filed: 12/23/02

Betty Gayless  
Secretary of State

By: Timothy D. Greenwald

## **II. SCOPE OF WORK**

### **1. The State will:**

a. Prepare landscape architectural plans for the landscaping, irrigation and multi-use pathway Project and submit them to the City for concurrence.

b. Upon concurrence from the City of the plans, request a permit for construction, call for bids and award one or more construction contracts for the Project, using federal and state funds, in an amount currently estimated at \$550,000.

c. Administer same and make all payments to the contractors. Be responsible for any contractor claims for extra compensation due to delays or whatever reason, attributable to the State.

d. Upon completion of construction, accept the Project on behalf of the parties.

### **2. The City will:**

a. Review the landscape architectural plans for the Project and provide comments. Grant the State the access right of entry upon all lands required for Project construction.

b. Furnish and install or arrange to have furnished and installed in its name, the necessary water services from water mains to the designated locations within the right of way, at the State's expense.

c. Furnish all water for landscape installation during the construction phase, and all water thereafter necessary to properly maintain the landscape, all at City expense. Be responsible for any contractor claims for extra compensation due to delays or whatever reason, attributable to the City.

d. Acquire the necessary right of way required for project construction and hereby certifies that all necessary rights of way have been or will be acquired prior to advertisement for bids and shall remove from the proposed right of way all obstructions or unauthorized encroachments of whatever nature, either above or below the surface of the project area and hereby certifies that all obstructions and encroachments have been or will be removed there from prior to the start of construction.

e. Upon completion of the construction Project, provide funding in its annual budget and be responsible for, the landscape maintenance, multi-use pathway and irrigation system including all testing, adjusting, repairing and operation of the irrigation system, and shall furnish all electrical power necessary to operate the irrigation system.

f. Maintain the landscaping including plants, decorative paving, multi-use pathway, benches, and planters. Landscape maintenance shall consist of the care of all plants in accordance with accepted horticultural practices, keeping all areas in good repair and free of weeds, undesirable grasses and litter, applying irrigation water, furnishing and applying insecticide/herbicide sprays and dust to combat diseases and other pests, pruning and replanting as required to maintain the landscaping as it was designed, and established at the completion of the project. The City will not make any changes, additions or deletions without written approval of the State. All maintenance work shall be conducted in a manner to minimize traffic congestion and interference with through traffic. All traffic control will meet the requirements of the Arizona Department of Transportation's "Uniform Traffic Control Manual."

## **III. MISCELLANEOUS PROVISIONS**

1. This agreement shall become effective upon filing with the Secretary of State.

2. The terms, conditions and provisions of this agreement shall remain in full force and effect until completion of said Project; provide however, that this agreement, except any provisions herein for maintenance which shall be perpetual, may be cancelled at any time prior to the award of a Project advertisement, with 30 days written notice to the other party. It is understood and agreed that, in the event this agreement is terminated by the City, the State shall in no way be obligated to maintain said landscaping.

3. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

4. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

5. In the event of any controversy which may arise out of this agreement, the parties hereby agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

6. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation  
Joint Project Administration  
205 South 17<sup>th</sup> Avenue, Mail Drop 616E  
Phoenix, AZ. 85007  
FAX: 602-712-7424

City of Somerton  
City Engineer  
110 N. State Avenue  
Somerton, AZ 85350

7. Attached hereto is the written determination of each party's legal counsel the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

---

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

**CITY OF SOMERTON**

By

  
AGUSTIN TUMBAGA  
Mayor

**STATE OF ARIZONA**

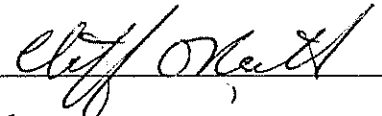
Department of Transportation

By

  
SUSAN TELLEZ  
Contract Administrator

ATTEST

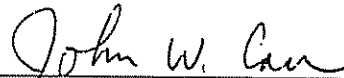
By

  
City Manager

RESOLUTION

BE IT RESOLVED on this 1st day of October, 2002, that I, the undersigned VICTOR M. MENDEZ, as Director of the ARIZONA DEPARTMENT OF TRANSPORTATION, have determined that it is in the best interests of the STATE OF ARIZONA that the DEPARTMENT OF TRANSPORTATION, acting by and through the INTERMODAL TRANSPORTATION DIVISION, to enter into an agreement with the CITY OF SOMERTON for the purpose of defining responsibilities for landscape architectural plans, irrigation and multi-use pathway for the detention basin within the Right-of way on US 95 and City owned land immediately adjacent to US 95.

Therefore, authorization is hereby granted to draft said agreement, which, upon completion, shall be submitted to the Contract Administrator for approval and execution.

A handwritten signature in cursive script, reading "John W. Carr", is written over a horizontal line.

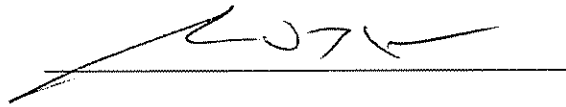
JOHN W. CARR, P.E., Staff Engineer  
Development / Intermodal Transportation Division  
for VICTOR M. MENDEZ, Director

JPA 02-144

APPROVAL OF THE CITY OF SOMERTON ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the STATE OF ARIZONA, by and through its DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the CITY OF SOMERTON and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 3rd day of December, 2002.

A handwritten signature in black ink, appearing to be 'L. J. V.', is written over a horizontal line.

Attorney



OFFICE OF THE  
MAYOR  
CITY OF SOMERTON

# *Resolution*


## *NO. 740*

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SOMERTON, ARIZONA AUTHORIZING THE MAYOR TO EXECUTE AND THE CITY MANAGER TO ATTEST TO ANY AND ALL DOCUMENTS PERTAINING TO THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF SOMERTON AND THE STATE OF ARIZONA FOR LANDSCAPING AND MAINTENANCE OF THE SOMERTON DETENTION BASIN LOCATED ON AVENUE F.

**WHEREAS**, The City is desirous of entering into a certain document the Intergovernmental Agreement with the State of Arizona for landscaping and maintenance of the Somerton Detention Basin located on Avenue F and,

**NOW THEREFORE BE IT RESOLVED**, by the City Council of the City of Somerton, Arizona as follows: That Agustin Tumbaga Jr., Mayor, is authorized to execute, and Cliff O'Neill, Acting City Manager, is authorized to attest, on behalf of the City of Somerton, Arizona, any documents related to the Intergovernmental Agreement with the State of Arizona.

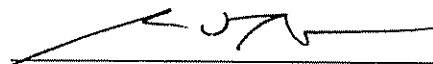
**PASSED AND ADOPTED** this 3rd day of December, 2002.

  
\_\_\_\_\_  
Agustin Tumbaga Jr., Mayor

**ATTEST:**

  
\_\_\_\_\_  
Cliff O'Neill, Acting City Manager

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Gerald W. Hunt, City Attorney



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL  
TRANSPORTATION SECTION

JANET NAPOLITANO  
ATTORNEY GENERAL

1275 WEST WASHINGTON STREET, PHOENIX, AZ. 85007-2926

TRN Main: (602) 542-1680  
Direct: (602) 542-8855  
Fax: (602) 542-3646

MAIN PHONE : (602) 542-1680  
FACSIMILE : (602) 542-3646

**INTERGOVERNMENTAL AGREEMENT**  
**DETERMINATION**

A.G. Contract No. KR02-2048TRN (JPA 02-144), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED December 12, 2002.

JANET NAPOLITANO  
Attorney General

SUSAN E. DAVIS  
Assistant Attorney General  
Transportation Section

/srs

Att.



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL  
TRANSPORTATION SECTION

1275 WEST WASHINGTON STREET, PHOENIX, AZ. 85007-2926

JANET NAPOLITANO  
ATTORNEY GENERAL

TRN Main: (602) 542-1680  
Direct: (602) 542-8855  
Fax: (602) 542-3646

MAIN PHONE : (602) 542-1680  
FACSIMILE : (602) 542-3646


**INTERGOVERNMENTAL AGREEMENT**  
**DETERMINATION**

A.G. Contract No. KR02-2048TRN (JPA 02-144), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED December 12, 2002.

JANET NAPOLITANO  
Attorney General

  
SUSAN E. DAVIS  
Assistant Attorney General  
Transportation Section

/srs

Att.